



July 17, 2019

Chairwoman Karen Bass
Ranking Member John Ratcliffe
Subcommittee on Crime, Terrorism, Homeland Security
House Judiciary Committee
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairwoman Bass and Ranking Member Ratcliffe:

On behalf of The Leadership Conference on Civil and Human Rights (The Leadership Conference), a coalition of more than 200 national advocacy organizations, we write to express our continued strong support for the reform of cannabis laws and policy in the United States. We commend the Judiciary Committee for holding a hearing on this critical issue and especially applaud this committee's emphasis on highlighting the disparate impact of cannabis policies on communities of color, particularly African Americans. We urge the committee to only put forward legislation that includes the de-criminalization (i.e. de-scheduling) of cannabis at the federal level and provides relief to currently incarcerated individuals and those with prior arrests and conviction histories.

The hearing — *Marijuana Laws in America: Racial Justice and the Need for Reform* — has come at a particularly auspicious time. There is a critical need for reform because current federal cannabis laws and policies continue to disparately punish Black and Brown people and contribute to mass incarceration, penal institution overcrowding, and a costly criminal legal system. As a member of the Marijuana Justice Coalition, we ask that any legislation moving forward in Congress be comprehensive and address the impact of these draconian policies on people of color. The Marijuana Justice Coalition's full list of principles was released yesterday and can be found at the link [here](#).

Future cannabis legislation must provide a mechanism through which the United States government can atone for the War on Drugs. Ultimately, comprehensive cannabis legislation will help to better facilitate the dismantling of structural racism and inequity within the criminal legal system that resulted from the War on Drugs. Federal drug laws and the drug policies adopted by this administration and previous administrations continue to undermine civil and human rights, disproportionately impact people of color, and contribute to mass incarceration. Adopting a policy position that focuses on lowering or eliminating federal penalties for medicinal and recreational cannabis use, possession, and/or sale would promote a public health, rather than punishment, approach to drugs.

I. Historical Context and War on Drugs

Cannabis was first categorized as a Schedule I drug during the Nixon administration through the Comprehensive Drug Abuse Prevention and Control Act of 1970 as part of Nixon's War

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on Drugs.¹ Even so, the administrations of Presidents Nixon, Ford, and Carter all focused on drug rehabilitation and treatment, with the majority of drug enforcement actions directed toward substances with greater health risks than cannabis, like heroin, fentanyl and cocaine.² Enforcement against cannabis increased dramatically, however, when the Reagan administration adopted a punishment-based approach to the War on Drugs and emphasized arrest and incarceration as the primary means to combat drug use.³ The Reagan administration imposed mandatory minimum sentences for drug offenses under the Anti-Drug Abuse Act of 1986 and dedicated more than a billion dollars to law enforcement efforts to increase drug arrests.⁴ The subsequent administrations implemented even harsher enforcement tactics, emphasizing a “zero-tolerance” approach to drugs and calling upon law enforcement to channel its efforts against street-level drug sales and use in local neighborhoods.⁵

The “arrest-first” policy of the early 1990s led to an increase in drug arrests overall, but it had an especially large impact on cannabis arrests. FBI reports show that total drug arrests increased by 41 percent between 1991 and 1995, with cannabis arrests increasing by 80 percent.⁶ The FBI called cannabis the “fastest growing drug category” in the 1990s. The emphasis on neighborhood-focused eradication led to a large increase in arrests of persons of color, largely due to the emphasis on street searches within low-income communities of color. FBI reports show that drug arrests for persons of color increased by 98 percent between 1990 and 1995, compared with a 62 percent increase for White people.⁷ The increasing arrest rates and racial disparities continued into the 2000s and still exist today. The majority of these cannabis-related arrests were for simple possession.⁸ Of the 8.2 million marijuana arrests between 2001 and 2010, 88 percent were for simply possessing cannabis.⁹

The punishment-based approach to the War on Drugs also led to a dramatic increase in incarceration and a corresponding racial disparity in incarceration rates. The total incarceration rate in the United States remained relatively stable throughout the 20th century, but it began to increase around the same time the focus of the War on Drugs turned from treatment and rehabilitation to arrest and incarceration.¹⁰ The number of people incarcerated in prisons and jails for drug offenses in the United States was 40,900 in 1980,¹¹ but steadily climbed to reach a total number of 469,545 in 2015. The exponential increase is largely due to the War on Drugs and mandatory sentencing laws.¹²

¹ “The War on Marijuana in Black and White.” *The American Civil Liberties Union*. June 2013. Pg. 86.

<https://www.aclu.org/report/report-war-marijuana-black-and-white>.

² *Ibid.* Pg. 87.

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.* Pg. 89.

⁶ “Crime in the United States 1996. Section V. Drugs in America: 1980-1995.” *FBI Uniform Crime Reporting*. 1996. Pg. 280.

<https://ucr.fbi.gov/crime-in-the-u.s/1996/96sec5.pdf>

⁷ *Ibid.* Pg. 282.

⁸ Angell, Tom, Marijuana Arrests Increasing Despite Legalization, New FBI Data Shows, Forbes, September 2018,

<https://www.forbes.com/sites/tomangell/2018/09/24/marijuana-arrests-are-increasing-despite-legalization-new-fbi-data-shows/>

⁹ Marijuana Arrests by the Numbers, ACLU, <https://www.aclu.org/gallery/marijuana-arrests-numbers>

¹⁰ “Trends in U.S. Corrections.” *The Sentencing Project*. Last Updated June 2019. Pg. 1. <https://sentencingproject.org/wp-content/uploads/2016/01/Trends-in-US-Corrections.pdf>

¹¹ *Ibid.* Pg. 3.

¹² *Ibid.*

II. Cannabis Reform Will Impact Communities of Color because Punishment for Cannabis Use Historically and Currently has Been Disproportionately Burdensome to these Groups.

Overincarceration and racial disparities created by the enforcement of cannabis laws are still a significant issue in the United States. The continued enforcement of cannabis prohibition laws results in over 600,000 arrests annually, disproportionately impacting people of color. These cannabis arrests continue to punish low-level street dealers and users more severely than the high-level members of drug organizations.¹³ On average, Black people are more 3.73 times more likely to be arrested for possession of cannabis than White people.¹⁴ This is the case despite studies that indicate Black people only use cannabis at 1.3 times the rate of White people.¹⁵ Further, in addition to disproportionate arrest rates, people of color have been historically targeted by discriminatory sentencing practices. On average, Black men receive drug sentences that are 13.1 percent longer than sentences imposed for White men, and Latinos are nearly 6.5 times more likely to receive a federal sentence for cannabis possession than non-Hispanic Whites. For example, in 2013, simple cannabis possession was the fourth most common cause of deportation for all offenses and the most common cause of deportation for drug law violations.

III. Cannabis Reform Can Positively Impact the Economic and Social Fabric of Communities of Color and the Country at Large.

Discriminatory drug enforcement has structural barriers to building economic wealth.¹⁶ While people of color suffer the disparate burden of the punishment for cannabis violations, the economic benefits predominantly flow to others. Currently, it is estimated that less than one percent of the cannabis industry is owned or operated by people of color.¹⁷ Therefore, any meaningful cannabis reform legislation must be developed using a racial justice lens. The War on Drugs and cannabis criminalization have caused economic devastation and led to the perpetuation of poverty in America, especially for communities of color. Many impacted individuals are burdened by bail and fees that they cannot afford because of an offense and often times end up spending additional time in confinement because of an inability to pay.¹⁸ The money-bail system bars many cannabis users and dealers who are low-level offenders and awaiting trial to be released. Research shows that Black defendants receive higher bail amounts and are less likely to be released without bail.¹⁹ The majority of people in jail, 60 percent, are there because they can't afford bail.²⁰ Bail and fees,

¹³ King, Ryan and Mauer, Marc. "A 25-Year Quagmire: The War on Drugs and its Impact on American Society." *The Sentencing Project*. September 1, 2007. Pgs. 12-13. <https://www.sentencingproject.org/publications/a-25-year-quagmire-the-war-on-drugs-and-its-impact-on-american-society/>

¹⁴ "Criminal Law Reform." *ACLU*. 2018. <https://www.aclu.org/issues/criminal-law-reform>

¹⁵ *Ibid.*

¹⁶ Using Marijuana Revenue to Create Jobs, Center for American Progress, May 2019, <https://www.americanprogress.org/issues/criminal-justice/reports/2019/05/20/470031/using-marijuana-revenue-create-jobs/>

¹⁷ *Ibid.*

¹⁸ Harriot, Michael, Money Bail Might Be the Most Racist, Immoral Part of America's Criminal Injustice System, *The Root*, Dec. 2018, <https://www.theroot.com/money-bail-might-be-the-most-racist-immoral-part-of-am-1831241786>

¹⁹ *Ibid.*

²⁰ Lam, Bourree, Is Bail Causing Convictions?, *The Atlantic*, May 2016, <https://www.theatlantic.com/business/archive/2016/05/money-bail/484034/>

discriminatory policies that have led to mass incarceration and over incarceration, prevent many people of color from benefiting from the cannabis industry and increasing their economic opportunities.

Full legalization is also likely to result in cost-savings and tax benefits for federal and state governments. The total amount that cannabis prohibition costs states and the federal government each year by pursuing cannabis offenses is an estimated four billion dollars.²¹ Legalizing cannabis use and possession would save money by eliminating associated law enforcement and court filing fees, as demonstrated by the savings experienced by states that have already legalized it. Studies have found that crime dropped in each state after legalization.²² Some proponents for legalization of cannabis argue that reform can eliminate hostile interactions and even improve community trust with law enforcement to ultimately decrease violence, increase the solving of more violent crimes, and positively affect reentry outcomes.²³

Furthermore, governments would be able to regulate and tax the industry, generating revenue and shifting limited law enforcement resources toward issues that present more of a threat to public safety. Federal and state governments could also direct cost savings and revenue toward rehabilitation and treatment programs for other drug users and to programs that benefit and reinvest in communities. For example, Colorado distributed \$230 million of cannabis tax revenues to the Colorado Department of Education between 2015 and 2017 to fund school construction, early childhood literacy, bullying prevention, and behavioral health.²⁴ Washington also dedicates 25 percent of its cannabis tax revenues to substance use disorder treatment, education, and prevention, and distributes 55 percent of its cannabis tax revenues to fund basic health plans.²⁵ Oregon allocates 40 percent of cannabis tax revenue to its state school fund, depositing over \$34 million into the fund, and also distributes 20 percent of the revenue to alcohol and drug treatment.²⁶

IV. Cannabis Reform Will Positively Affect the Public Health of America.

Many public health concerns are part of the cannabis reform debate. Anti-legalization proponents argue that cannabis is a gateway drug and any potential reform can lead to substance misuse, addiction, accidental ingestion by children, and intentional consumption by adolescents.²⁷ In contrast, evidence suggests medicinal marijuana use can also benefit those undergoing chemotherapy, epilepsy, and those suffering from wasting syndrome as a result of AIDS.²⁸ Further, there is now evidence that cannabis can even serve as an “exit drug,” in that it reduces or eliminates use of more harmful drugs such as opiates or alcohol by easing withdrawal symptoms.²⁹ Experts say medical marijuana may also help reduce opioid overdoses

²¹ Statement of Principles on Federal Marijuana Reform, The Marijuana Justice Coalition, http://www.drugpolicy.org/sites/default/files/mjc-principles_0.pdf

²² From Prohibition to Progress: A Status Report on Marijuana Legalization, Drug Policy Alliance. Jan. 2018. <http://www.drugpolicy.org/legalization-status-report>

²³ Jaeger, Kyle, Legalizing Marijuana Helps Police Solve Other crimes, New Study Shows, Marijuana Movement, Jul. 2018, <https://www.marijuanamoment.net/legalizing-marijuana-helps-police-solve-other-crimes-new-study-shows/>

²⁴ From Prohibition to Progress: A Status Report on Marijuana Legalization, Drug Policy Alliance. Jan. 2018. <http://www.drugpolicy.org/legalization-status-report>

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ McFarland, A. Finn, Weeding through the Public Health Implications of Marijuana Legalization, Tufts Public Health, December 18, 2018.

<https://publichealth.tufts.edu/news/2019/02/weeding-through-public-health-implications-marijuana-legalization>

²⁸ *Ibid.*

²⁹ Is marijuana a gateway drug?, Drug Policy Alliance, <http://www.drugpolicy.org/marijuana-gateway-drug>

because it can be prescribed to treat pain instead of highly addictive opioids.³⁰ In addition, states with medical marijuana laws have lower rates of deaths from drug use.³¹ Cannabis reform can also improve trust and strength in doctor-patient relationships,³² and patients may be willing to be more candid about their drug use because of its decreased stigma.

V. Cannabis Reform Will Eliminate Barriers to Access to Public Benefits.

Arresting and incarcerating individuals for cannabis leads to serious consequences that affect the person who was convicted, their family, and society as a whole. People convicted of felony cannabis offenses suffer from the same, if not worse, consequences as those convicted of non-felony level “violent” crimes. Federal law requires that the states revoke the driver’s license of a person who was convicted of any felony for at least six months, and permits states to revoke their license for even longer.³³ Under federal law and under the law of 31 states, people with felony convictions are not allowed to participate in jury service,³⁴ and many states restrict their voting rights.³⁵ Individuals with felony convictions also experience limited access to employment opportunities, and often struggle to find a job after release.³⁶ When coupled with current efforts to increase work requirements for government assistance with basic need, reentry becomes even more complicated for already vulnerable individuals impacted by drug convictions.

Lifting federal bans that disproportionately affect low-income communities and persons of color would help to reduce racial disparities in reentry. People convicted of drug offenses, including cannabis offenses, are often targeted under criminal law and subject to exclusions that do not impact other people returning to their communities after a period of incarceration. They face barriers to actively participating in their children’s lives (i.e. prohibited from volunteering at schools or chaperoning field trips). Impacted individuals are often ineligible for certain public benefits, for example, Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance for Needy Families (TANF) based on the jurisdiction they live in. They also can’t access affordable public housing and can be prohibited from receiving public education loans. Cannabis reform can also lead to the development of community services and provide additional wraparound services to impacted individuals.

These impacted individuals are also subject to drug testing for public benefits. Conviction or continued marijuana use by returning citizens has also led to family separation by removing children from their biological families and placing them in the child welfare system. Additional limitations include barriers to acquiring business loans, access to health care, or even inability to legally adopt. In totality, individuals

³⁰ *McFarland, A. Finn*, Weeding through the Public Health Implications of Marijuana Legalization, Tufts Public Health, December 18, 2018.

<https://publichealth.tufts.edu/news/2019/02/weeding-through-public-health-implications-marijuana-legalization>

³¹ Marijuana Legalization and Public Health: The Great Debate, MPHonline, <https://www.mphonline.org/marijuana-legalization-public-health/>

³² Grinspoon, Peter, Medical marijuana Harvard Health Publishing, Harvard Medical School, January 2018, <https://www.health.harvard.edu/blog/medical-marijuana-2018011513085>

³³ 23 U.S. Code § 159.

³⁴ “Every 25 Seconds the Human Toll on Criminalizing Drug Use in the United States.” *ACLU and Human Rights Watch*. October 2016. Pg. 156. https://www.aclu.org/sites/default/files/field_document/usdrug1016_web.pdf

³⁵ *Ibid.* Pgs. 150-51.

³⁶ “‘Ban the Box’ is a Fair Chance For Workers With Records.” *National Employment Law Project*. Aug. 2017. <https://s27147.pcdn.co/wp-content/uploads/Ban-the-Box-Fair-Chance-Fact-Sheet.pdf>

leaving prison face stigma, and research shows that these barriers present themselves even further because of spotty work history, low education levels, and untreated substance abuse and mental health issues. Collateral consequences like those listed create barriers for individuals attempting to re-integrate back into society.³⁷ Therefore, dismantling these collateral consequences would help reduce the likelihood of recidivism.

V. Cannabis Reform Will Increase Equity in a Society Shaped by Racial Discrimination in the Criminal Justice System.

The Leadership Conference advocates for the complete removal of federal penalties for the use and possession of cannabis, including recreational and medicinal cannabis, with provisions that focus on reparative justice, and removal of cannabis from the Controlled Substances Act. Public sentiment supports legalization: a majority of American voters — 68 percent — are in support of cannabis reform, according to a 2018 Center for American Progress and GBAO Strategies poll.³⁸ Additionally, 73 percent of American voters support the automatic sealing of marijuana offenses.³⁹ More importantly, ending prohibition would eliminate any racial disparities resulting from cannabis-related arrests and convictions and would likely help decrease the overall number of incarcerated persons of color. Federal reform would also result in the dismantling of federal collateral consequences in education, employment, and housing that disproportionately harm communities of color and low-income communities. Several states have already legalized cannabis, including Alaska, Illinois, Maine, Michigan, Nevada, Vermont, Washington, Washington, D.C., California, Colorado, Massachusetts, and Oregon.

We urge action through legislative reform to increase equity within the legal cannabis marketplace and provide industry access to people of color. This country must reckon with its legacy of racial and ethnic injustices, including the disproportionate collateral consequences of 80 years of cannabis prohibition enforcement that now limits participation in the industry. Both disproportionate arrest and conviction rates have made it particularly difficult for people of color to enter the legal cannabis marketplace. The communities that have been most harmed by cannabis prohibition are benefiting the least from the legal cannabis marketplace. One way to increase equity within the cannabis industry is to provide loans and capital for cannabis businesses to individuals who are disproportionately impacted minority small business owners.

Cannabis legislative reform must benefit individuals who were formerly incarcerated or have prior drug law violations and criminal convictions. Creating a process that will provide the expungement or sealing of criminal records for cannabis offenses and eliminating broad felony restrictions for licensing will benefit these individuals, as well as individuals who are currently on parole or under any probationary agreement, for cannabis offenses. Any meaningful cannabis reform should also establish resentencing for individuals

³⁷Laird, Lorelei, Ex-offenders face tens of thousands of legal restrictions, bias and limits on their rights, ABA Journal, Jun.2013

http://www.abajournal.com/magazine/article/ex-offenders_face_tens_of_thousands_of_legal_restrictions

³⁸ Center for American Progress. Voters Across Party Line Support Clean Slate Legislation.

<https://www.americanprogress.org/issues/criminal-justice/news/2018/06/20/451624/voters-across-party-lines-support-clean-slate-legislation/>

³⁹ *Ibid.*

-serving sentences for cannabis convictions and redesignate penalties for persons previously convicted of cannabis-related crimes for which the penalties have been reduced or removed. This should also apply to those currently under parole, probation, state supervision, or released on bail awaiting trial.

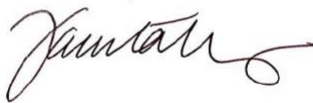
Any meaningful cannabis reform must provide opportunities where tax revenue from cannabis sales can be reinvested in communities that have been most affected by cannabis arrests and the War on Drugs. Tax revenues should also be used to establish a special fund to provide small business investments to support people of color entering the legal cannabis industry. Moreover, profits made through the cannabis industry should support local jurisdictions and community leaders in developing programs in order to serve impacted individuals with job training, reentry services, expungement expenses, public libraries, community centers, programs and opportunities dedicated to youth, and health education programs.

VI. Conclusion

Federal drug laws and the drug policies adopted by this administration and previous administrations continue to undermine civil and human rights, disparately impact persons of color, and contribute to mass incarceration. Adopting a policy position that focuses on lowering or eliminating federal penalties for medicinal and recreational cannabis use, possession, and/or sale would harmonize well with the "public health rather than punishment" approach to drug reform that The Leadership Conference has already adopted.

Moreover, given the evolving public sentiment towards cannabis, recent state-level reforms, and the increasingly vocal support for reform from even more moderate coalition members, the issue of cannabis reform is ripe for action. We urge you to advance cannabis drug reforms that finally respect the civil and human rights of all communities. If you have any questions, please feel free to contact Sakira Cook at cook@civilrights.org or (202) 263-2894. Thank you for your support for this critical legislation.

Sincerely,



Vanita Gupta
President & CEO